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February 16, 2021

RE: Docket No. R-1723 and RIN 7100-AF94
Advance Notice of Proposed Rulemaking; Request for Comment

Dear Board of Governors:

An ever changing and evolving society also requires regulatory change to keep up and adapt to effectively serve its intended purpose. It's time for CRA to modernize through regulatory change whether than addressing and clarifying issues via an updated Q&A.

We all know there are significant differences in bank sizes, business models, local markets, needs and CRA opportunities. Technology advances have created new bank services and greatly improved customer access, yet may have put some banks, other than the very largest, at a disadvantage to fairly compete, due to the infrastructure development and maintenance cost. Each examined bank must be evaluated fairly taking into consideration its own unique footprint and character. Therefore, any changes to CRA needs to be carefully weighted for its envisioned benefit versus the burden of additional data collection and its potential adversarial or contradictive impact on other regulations.

Penn Community Bank has reviewed the questions and has responded to the following:

Question 2. In considering how the CRA's history and purpose relate to the nation's current challenges, what modifications and approaches would strengthen CRA regulatory implementation in addressing ongoing systemic inequity in credit access for minority individuals and communities?

The ongoing systemic inequity needs to be identified at the institutional level and stopped. This is easily identified during a CRA examination and can be systematically eliminated over a short period of time. How to address financial institutions that are not subject to CRA is another matter. In the meantime, establish and or advertise more an existing user friendly method for all consumers to report unfair or unequitable lending services or practices. Define what this is and repeat. This will cover all financial institutions.

Question 3. Given the CRA's purpose and its nexus with fair lending laws, what changes to Regulation BB would reaffirm the practice of ensuring that assessment areas do not reflect illegal discrimination and do not arbitrarily exclude LMI census tracts?

Regulation BB currently defines assessment areas for banks in connection with bank's deposit-taking physical locations and surrounding areas in which it has originated or purchased a substantial portion of its loans. The proposed new deposit assessment approach would address the current potential imbalance with the loan side but may create gaps or pockets that would need to be included in an assessment area. Strengthening the contiguous approach to include all census tracts filling those gaps would help and eliminate any consideration for excluding LMI census tracts. Branch-based assessment areas would still need to be retained with some flexibility because of the differences in business models and geographic locations.

Question 8. Should delineation of new deposit- or lending-based assessment areas apply only to internet banks that do not have physical locations or should it also apply more broadly to other large banks with substantial activity beyond their branch-based assessment areas? Is there a certain threshold of such activity that should trigger additional assessment areas?

No – Although most banks are opening deposit accounts and taking loan applications online they are generally limiting the market area to a reasonable distance from their physical locations. Based on an individual bank's experience creating additional assessment areas especially those in underserved communities should be an option. The threshold needs to be such that a bank would not be penalized for serving outlying potential customers.

Question 17. Is it preferable to retain the current approach of evaluating consumer lending levels without the use of standardized community and market benchmarks, or to use credit bureau data or other sources to create benchmarks for consumer lending?

Using credit bureau data would be more precise in actual loans made if benchmarks are updated and compared to the same annual results. Lending volume can shift based on pricing, new construction, age of housing and lending cycles. Banks have historically been compared to peer banks for a fair comparison of results. Depending on the geographic location there may be only a few or there could be hundreds of potential financial creditors making it easy or more difficult for financial institutions to complete for the limited number of loan applications available in any given year. It would be preferable to retain the current approach.

Question 23. Should adjustments to the recommended conclusion under the performance ranges approach be incorporated based on examiner judgment, a predetermined list of performance context factors, specific activities, or other means to ensure qualitative aspects and performance context are taken into account in a limited manner? If specific kinds of activities are listed as being related to "outstanding" performance, what activities should be included?

It is important to consider the limited aspects of performance context not considered in the metrics. As such, adjustments to the recommended conclusion under the performance ranges approach should be allowed. Identifying those factors will be important.

Question 24. In addition to the number of branches and the community and market quantitative benchmarks discussed above, how should examiners evaluate a bank's branch distribution?

The current four current branch-related evaluation factors (branch distribution, record of opening and closing branches, branch related services, and non-branch delivery systems) are to continue under the delivery systems component of the retail services evaluation. Leveraging the quantitative benchmarks to determine the branch distribution analysis should be used as a tool to determine whether branches are accessible to LMI communities, and to individuals of different income levels, and to businesses in the assessment area. Examiners still need to take into consideration the economics of opening and maintaining a branch system as well as the impact of online banking.

Question 29. What types of data would be beneficial and readily available for determining whether deposit products are responsive to needs of LMI consumers and whether these products are used by LMI consumers? Be beneficial? If so, what benchmarks would be appropriate?

We currently do not geocode our deposit accounts nor require or keep income information that would identify deposit customers as LMI. Tailoring products for the needs of LMI consumers (meaning low cost, low or zero minimum balance) is currently being done. Identifying LMI usage would be helpful in determining the effectiveness of the products, however, how effective will the data be if income can't accurately complied. Right now anyone can open a product designed for LMI. Regulatory changes will be needed to allow banks to require income under some sort of industry standard to determine if a customer is LMI. In addition, this should be a global government communication informing customers that this is a monitoring mandate not an individual bank requirement. A reeducation of the public will be necessary, as well as a review of other regulations to ensure that a bank will not be put in a position of discriminating or violating other consumer rights. Consumers may feel providing income to open a deposit account is a privacy issue.

Question 30. Are large banks able to provide deposit product and usage data at the assessment area level or should this be reviewed only at the institution level?

We currently are not able to do this. Once we geocode our deposit accounts we still would only be able to monitor usage of LMI related products not based on actual income. This should be done at an institution level.

Question 32. How should the Board weight delivery systems relative to deposit products to provide a Retail Services Subtest conclusion for each assessment area? Should a large bank receive a separate conclusion for the delivery systems and deposit products components in determining the conclusion for the Retail Services Subtest?

Weighting delivery systems has to be determined on a case by case basis. Each bank has its own business model, developing essential and profitable products and services over time that tailor to the needs of the communities in which they do business. Very large banks that can provide the largest variety of products and services and can complete on all levels, therefore should receive a separate conclusion.

Question 33. Should the Board establish a major product line approach with a 15 percent threshold in individual assessment areas for home mortgage, small business, and small farm loans?

A major product line approach will need flexibility to adjust to individual bank product lines. Some banks do not offer small farm loans. Once thresholds have been established for different business models they would still need to be validated and given examiner judgement to allow for their differences.

Question 42. Should the Board combine community development loans and investments under one subtest? Would the proposed approach provide incentives for stronger and more effective community development financing?

These are two separate areas in most banks with different required team member expertise that may have some overlap depending on the bank structure but can work together when needed without being put into one subtest.

Question 43. For large retail banks, should the Board use the ratio of dollars of community development financing activities to deposits to measure its level of community development financing activity relative to its capacity to lend and invest within an assessment area? Are there readily available alternative data sources that could measure a bank's capacity to finance community development?

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No, The Board should not use a ratio of dollars of community development financing to deposit to measure activity. More research is needed to justify and validate community assessment needs rather than rate a bank on its capacity to lend.

Question 58. How could the Board establish clearer standards for economic development activities to "demonstrate LMI job creation, retention, or improvement"?

The Board should give direction on helping banks determine what needs are present in the community. Provide the tools or develop source reporting from other government agencies or support groups and provide that information to banks. Examples include hospital community health assessments, local government reports and assessments performed by non-profits. With reliable information in hand a bank will be able to make informed decisions and take measurable actions to demonstrate LMI job creation, retention and improvement.

Question 60. Should the Board codify the types of activities that will be considered to help attract and retain existing and new residents and businesses? How should the Board ensure that these activities benefit LMI individuals and communities, as well as other underserved communities?

Recommended activities could be suggested. To codify may limit as well as eliminate possibilities if they do not fit the "cookie cutter" check off box. Flexibility is needed not becoming more rigid. Our area has had an increase in LMI census tracts and this was prior to Covid-19. Technology may eliminate more middle income jobs potentially increasing the LMI which will require banks to adjust as well.

Question 61. What standards should the Board consider to define "essential community needs" and "essential community infrastructure," and should these standards be the same across all targeted geographies?

Essential community infrastructure is a consistent need among all communities and serves all income levels. Without a strong infrastructure the foundation of any community will decay. Stabilization of essential community infrastructure should be a part of CRA and not limited to a targeted geography. "Essential community needs" definition should be flexible enough to adapt and not create a standard over all areas that have different needs.

Question 69. Should the Board expand the geographic areas for community development activities to include designated areas of need? Should activities within designated areas of need that are also in a bank's assessment area(s) or eligible states and territories be considered particularly responsive?

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Expanding the designated areas of need should not be necessary for community banks. Current standards allow for loans outside the bank's assessment area. Banks should be given greater credit for assessment area activity but should still be required to support LMI job creation in designated area of need. Amount of acceptable activity needs to be evaluated.

Question 71. Would an illustrative, but non-exhaustive, list of CRA eligible activities provide greater clarity on activities that count for CRA purposes? How should such a list be developed and published, and how frequently should it be amended?

Yes, this is a needed source that should be published annually and amended every 2 to 3 years to remain current with CRA Examinations.

Question 81. Should large bank ratings be simplified by eliminating the distinction between "high" and "low" satisfactory ratings in favor of a single "satisfactory" rating for all banks?

No. In fact the overall rating should add a "high" satisfactory to reward banks for all the hard work but falling short of an outstanding rating.

Question 91. Is the certainty of accurate community development financing measures using bank collected retail deposits data a worthwhile tradeoff for the burden associated with collecting and reporting this data for all large banks with two or more assessment areas?

The answer to this question won't be answered until years after the changes are put in place. The bank answer will be most likely be "no" the data crunchers will say "yes" but the results will validate that banks have been strong community supporters and an "'essential" part of their community.

Sincerely,

PennCB, the entity

Penn Community Bank